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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,799	12/20/2001	Naokazu Takeda	217039USOXPC	8697

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EXAMINER

WINKLER, ULRIKE

ART UNIT

PAPER NUMBER

1648

DATE MAILED: 01/27/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/926,799

Examiner

Ulrike Winkler, Ph.D.

Applicant(s)

TAKEDA ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

*Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:1 or a partial peptide thereof.

Group II, claim(s) 1-4 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:2 or a partial peptide thereof.

Group II, claim(s) 1-4 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:3 or a partial peptide thereof.

Group IV, claim(s) 1-4 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:4 or a partial peptide thereof.

Group V, claim(s) 1-3, 5 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:5 or a partial peptide thereof.

Group VI, claim(s) 1-3, 5 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:6 or a partial peptide thereof.

Group VII, claim(s) 1-3, 5 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:7 or a partial peptide thereof.

Group VIII, claim(s) 1-3, 5 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:8 or a partial peptide thereof.

Group IX, claim(s) 1-3, 5 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:9 or a partial peptide thereof.

Group X, claim(s) 1-3, 5 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:10 or a partial peptide thereof.

Group XI, claim(s) 1-3, 5 and 6, drawn to an antibody that recognizes a peptide having 80% homology with SEQ ID NO:11 or a partial peptide thereof.

Group XII, claim 7, drawn to an nucleic acid sequence comprising SEQ ID NO:15.

Group XIII, claim 7, drawn to an nucleic acid sequence comprising SEQ ID NO:20.

Group XIV, claim 7, drawn to an nucleic acid sequence comprising SEQ ID NO:21.

Group XV, claim 7, drawn to an nucleic acid sequence comprising SEQ ID NO:22.

The inventions listed as Groups I-XV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking groups I-XV appears to be an SRSV sequence in which one or several bases of the sequence can be deleted, replaced or added to. As the claims do not set boundaries to the number of nucleotides that may be deleted or replaced any SRSV would read on the claim given the unlimited number of changes that may be made to the sequence. Kawamoto et al. (Microbial Immunology, 1993) disclose the isolation of SRSV viruses, which are comprised of nucleic acids that would meet the instant claim limitation of sequences represented by a nucleic acid sequence. Therefore, the technical feature linking the inventions of groups I-XV does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

The special technical feature of group I-XI is considered to be an antibody that recognizes polypeptide sequences having 80% homology with the sequences disclosed in SEQ ID NO: 1-11. These sequences each comprise different structures.

The special technical feature of group XII-XV is considered to be a nucleic acid sequence disclosed in SEQ ID NO: 15, 20-22. These sequences each comprise different structures.

Accordingly, groups I-XV are not so linked by the same or corresponding technical feature as to form a single general inventive concept.

Art Unit: 1648

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

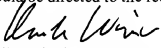
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ulrike Winkler, Ph.D. whose telephone number is 703-308-8294. The examiner can normally be reached M-F, 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached at 703-308-4027.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 or for informal communications use 703-308-4426.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

  
Ulrike Winkler, Ph.D. 1/24/03